

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TRACY STOKES,
Plaintiff,

v.

Case No. 09C0542

LARRY JENKINS,
Defendant.

ORDER

Pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings, the district court must issue or deny a certificate of appealability (“COA”) when it enters a final order adverse to a § 2254 petitioner. In order to obtain a COA, petitioner must make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The standard for making a “substantial showing” is whether reasonable jurists could debate whether the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. Slack v. McDaniel, 529 U.S. 473, 484 (2000). When the district court denies a petition on procedural grounds, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the motion states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Id.

_____ For the reasons stated in the order dismissing the petition as untimely, petitioner cannot show that my procedural ruling is debatable or wrong. Nor can he show that the

underlying claims deserve encouragement to proceed further. Therefore, I decline to issue a COA.

THEREFORE IT IS ORDERED that a certificate of appealability is **DENIED**.

Dated at Milwaukee, Wisconsin this 21 day of June, 2010.

/s _____
LYNN ADELMAN
District Judge